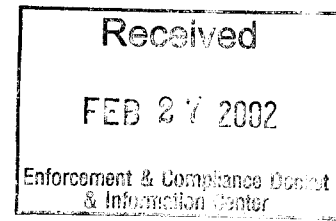


EC-2000-007
IV-D-110



February 26, 2002

United States Environmental
Protection Agency
Enforcement and Compliance Docket
and Information Center
Mail Code 2201A
1200 Pennsylvania Avenue N.W.
Washington, DC 20460



Attn: Docket Number EC-2000-007

Re: Comments of the Color Pigments Manufacturers Association, Inc.
on the Proposed Rule, Establishment of Electronic Reporting;
Electronic Records 66 Fed. Reg. 46162

Dear Sir or Madam:

I am writing of behalf of the Color Pigments Manufacturers Association, Inc., ("CPMA") with respect to the Proposed Rule, Establishment of Electronic Reporting; Electronic Records 66 Fed. Reg. 46162, (the "Proposed Rule"). The CPMA is an industry trade association representing color pigment companies in Canada, Mexico, and the United States. CPMA also represents small, medium and large color pigments manufacturers throughout Canada, Mexico and the United States, accounting for 95% of the production of color pigments in these countries. Color pigment manufacturers located in other countries with sales in Canada, Mexico and the United States, and suppliers of intermediates, other chemicals and other products used by North American manufacturers of color pigments are also members of the Association. Color pigments are widely used in product compositions of all kinds, including paints, inks, plastics, glass, synthetic fibers, ceramics, color cement products, textiles, cosmetics and artists' colors.

The CPMA, as a trade association made up of manufacturers of color pigments which are produced on an individual per batch basis, is concerned with the cost, utility and implementation of the Proposed Rule. The Preamble to the Proposed Rule defines regulated records to include:

"Regulated entities that use electronic systems to create, modify, maintain, or transmit electronic records will need to employ procedures and controls designed to meet minimum criteria" 66 Fed. Reg. 46169

The proposed criteria would include extensive procedures and safeguard software to maintain copies, prevent alteration, produce original copies, protect and create electronic signatures, time stamped audit trails, search and retrieve mechanisms, archive systems and the ability to turn computer systems over to inspecting agencies while conducting business. *66 Fed. Reg. 46170*

In short, this Proposed Rule requires extensive software and hardware systems in redundant configuration to monitor existing systems for regulatory inspection. The literal duplication of all computer records required by the Proposed Rule would include simple word processor and spreadsheet applications used in the day to day business of small batch manufacturers.

There are no benefits to the environment for such requirements. Indeed, the lost capital resources, energy and on-going maintenance of such systems will place a significant burden on the environment. Additional power use alone will be significant, particularly in larger enterprises where extensive additional computer systems and software would have to operate around the clock.

Our members use batch processes to produce color pigments. While most of our members are relatively small in economic size, even the largest of our members used batch processes in pigments manufacture. Color pigments are used primarily in paints, plastics and printing inks. There are hundreds of available color pigments in the marketplace. Each individual color pigment presents a unique set of characteristics, which distinguish its value in use in the marketplace.

As a result, nearly all organic and most inorganic color pigments are manufactured on an individual custom batch basis. Since each individual pigment product requires a specific set of ingredient raw materials and intermediates, color pigments manufacturers not only produce many individual products, these companies also utilize many different raw materials. Color pigments producers of all sizes must utilize some computer record keeping to maintain inventories of raw materials and products as well as related purchasing, labeling and shipping documents. These ordinary business records must then be used to prepare compliance reports, even if compliance reports are written by hand. As a practical matter, almost all compliance reports would be prepared, to some extent, on either a word processor or spreadsheet software program. This allows for modifications as new information develops without re-inputting or rewriting the compliance report. This could also apply to electronic reports used to prepare a compliance report by hand.

Therefore, the nature of batch production, and in particular small batch production units, requires that there are many computer records in day to day business which may be directly or indirectly used to produce a compliance report for state agencies or the EPA. In most cases, these reports are likely to be assembled by hand in writing or to utilize a word processor format. However, the data used to complete the handwritten report would derive from business records maintained in some type of computer.

It is simply not economically feasible or reasonable for every chemical manufacturer and especially batch producers to incorporate the level of security and identification required by the Proposed Rule in these ordinary business and production records maintained in computers. Since batch manufacturers have more raw materials and more products which are made and stored on an intermittent basis, these manufacturers may have far more computer records subject to the protections required by the Proposed Rule. However, in all cases involving color pigments, there are no costs that can be passed onto consumers of color pigments. The Proposed Rule would place United States producers of color pigments at a distinct disadvantage in the global marketplace. Our competitors in other regions of the world do not have requirements similar to those proposed, nor are our competitors likely to incur any such requirements in the foreseeable future.

Color pigments manufacturers in the United States are under extreme pressure from importers of both color pigments and many of the intermediate products used to make color pigments. Regulations, such as this Proposed Rule, which act to place additional costs on United States manufacturers without any direct or discernable benefit to the environment must be questioned as to their utility. The resources required to create the systems EPA requires in this Proposed Rule, with whole new software and hardware systems, the sole purpose of which is to monitor the actual program in use, could not be economically developed by our members at this time. Since the sole purpose of these systems is to enable enforcement personnel to identify any change in an electronic record, the Proposed Rule will not produce any discernable benefit for the environment.

The CPMA is specifically endorsing and incorporating herein the comments prepared and submitted by the Synthetic Organic Chemical Manufacturers Association ("SOCMA"). In particular, we support SOCMA's extensive discussion of the inappropriate scope of the Proposed Rule and the fact that the Proposed Rule is a mandatory and onerous burden on industry. The EPA's portrayal of this initiative as a voluntary program is at best inappropriate and may be deceptive. Industry projections of costs at up to 40 billion dollars for compliance with the Proposed Rule are reasonable. Since the cost of the Proposed Rule will create mandatory expenditures for every regulated entity in the United States, this estimate is arguably conservative.

Also, as discussed in more detail in SOCMA's comments, the Proposed Rule violates both Executive Order 12866 and the Small Business Regulatory Enforcement Fairness Act ("SBREFA"). EPA has made no effort to conform this significant and burdensome rule with the requirements of good, cost effective governance and with the disproportionate impact this proposal will have on small entities, especially batch manufacturers.

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For the above reasons, we also support specifically SOCMA's reasoned conclusion that the Proposed Rule should be withdrawn.

Please call if there are any questions or comments.

Sincerely,

A handwritten signature in black ink, appearing to read 'J. Lawrence Robinson', with a stylized flourish at the end.

J. Lawrence Robinson
President

JLR:jldd